SB Civil Writ Petition No.4580/1999

Assistant Engineer, PWD Vs Shri Arbind Dubey & anr

1.10.2007

Hon'ble Mr Justice Ashok Parihar

Mr JK Agrawal, Addl GA – for petitioner

Mr VK Mathur – for respondent No.1

BY THE COURT:

Petitioner has challenged the award dated 22.3.1999 passed by the Labour Court No.1, Jaipur, by which, while holding the termination of the services of the respondent No.1 (the concerned workman) as illegal and unjustified, the concerned workman has been ordered to be reinstated and back wages have been allowed only w.e.f. 18.6.1986 i.e. from the date the dispute was raised beore the Conciliation Officer.

After hearing learned counsel for the parties, I have carefully gone through the material on record.

The Labour Court, on the basis of evidence, has come to a finding that there have been clear violation of section 25-F of the Industrial Disputes Act, 1947. The plea of abandonment, as raised on behalf of the petitioner, has not been accepted by the Labour Court. Since, after due

consideration, proper discretion has been used by the Labour Court in ordering reinstatement, in the facts and circumstances, I find no error or illegality in the same, however, however, looking to the nature and duration of employment, I find no justification in allowing any back wages to the concerned workman.

Accordingly, the writ petition is partly allowed. The impugned award dated 22.3.1999 passed by the Labour Court No.1, Jaipur is modified to the extent that the concerned workman will be entitled for reinstatement on the same terms and conditions he was employed at the time of termination from the date of the award only. However, he will not be entitled for any benefits prior to the above date. Since the concerned workman initially approached this Court for reference and now award passed by the Labour Court is under challenge, in the interest of justice, the petitioner is directed to reinstate the concerned workman within 30 days from the date of receipt of certified copy of this order and also make the payment, as referred to above, within 30 days thereafter.

(Ashok Parihar) J.

bnsharma